

**CONDITIONS VOLUNTARILY PROFFERED FOR THE RECLASSIFICATION OF  
PROPERTY IDENTIFIED AS TAX PARCEL 002 9A, GPIN C20B-3184-2547 AND TAX  
PARCEL 002 9B, GPIN C20B-3696-2909**

THESE PROFFERED CONDITIONS are made this ~~30<sup>th</sup>~~ day of July, 2004 by **64 ENTERPRISES, L.L.P.**, a Virginia limited liability partnership and **FORD'S COLONY FIRST CHOICE REALTY, INC.**, a Virginia corporation (together with their respective successors in title and assigns, the "Owner").

**RECITALS**

A. 64 ENTERPRISES, L.L.P. is the owner of a parcel of land located in York County, Virginia, one with an address of 1001 Newman Road and being Tax Parcel 002 9A, GPIN C20B-3184-2547 and being more particularly described on Exhibit A hereto (the "64 Property").

B. FORD'S COLONY FIRST CHOICE REALTY, INC. is the owner of a tract or parcel of land located in York County, Virginia, with an address of 2001 C Newman Road and being Tax Parcel 002 9A, GPIN C20B-3696-2909 and being more particularly described on Exhibit B hereto (the "First Choice Property").

C. 64 ENTERPRISES, L.L.P. has contracted to purchase the First Choice Property conditioned upon the rezoning of the Property.

D. The 64 Property is now zoned GB. The First Choice Property is now zoned RR. The 64 Property and the First Choice Property are hereinafter called the "Property". 64 ENTERPRISES, L.L.P, with the consent of FORD'S COLONY FIRST CHOICE REALTY, INC. has applied to rezone the Property from GB and RR to GB, with proffers.

E. Buyer has submitted to the County (i) a plan entitled "Conceptual Plan of Banbury

Village, Two Parcels” prepared by Davis & Associates dated February, 2004 (the “Plan”) for the Property showing the Property divided into three phases of development delineated as Village A, Village B and Village C and (ii) a plan entitled “Key Master Plan Elements” prepared by Guernsey Tingle Architects dated May 2004 (the “Key Elements Plan”).

F. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned GB.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and Section 24.1-114 of the County Zoning Ordinance, Owner hereby proffers that the development of the Property shall be in strict accordance with the conditions set forth below. If the requested rezoning is not granted by the County, these Proffered Conditions shall be null and void.

#### CONDITIONS

**1. Owners Association.** All owners of lots within the Property by virtue of ownership of their lot shall be members of a property owners association (the “Association”) in accordance with Article IV, Division 17 of the Zoning Ordinance. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall provide for a Architectural Review Committee as described in Condition 5 below with the power to review and approve all site development and construction plans within the development.

**2. Uses.** (a) The following uses, otherwise permitted by right in the GB zoning district,

shall **not** be permitted on the portion of the Property shown and set out as **Village A** on the Plan:

Plant Nurseries & Greenhouses  
Farmer's Markets  
Private Clubs  
Cemeteries  
Theaters  
Bowling Allies  
Video Arcades  
Skating Rinks  
Golf Driving Ranges  
Storage Shed & Utility Building Displays  
Funeral Homes  
Drive-in Restaurants (except drive-up window)  
Small Engine Repair Shops  
Auto & Truck Sales  
Boat Sales  
Taxi or Limousine Services  
Wholesale Auction Establishments  
Contractor's Storage Yards  
Recycling Plants  
Bus/Rail Terminals

(b) The following uses, otherwise permitted by right in the GB zoning district, shall **not** be permitted on the portion of the Property shown and set out as **Village B** on the Plan:

All of Village A excluded uses, plus  
Convenience Stores  
Auto Fuel Dispensing  
Hotels & Motels

(c) The following uses, otherwise permitted by right in the GB zoning district, shall **not** be permitted on the portion of the Property shown and set out as **Village C** on the Plan:

All of Village A and Village B excluded uses, plus  
Shopping Centers  
Tourist Homes, Bed & Breakfasts  
Indoor Family Amusement Centers  
Banks  
Restaurants  
Retail & Mercantile Uses

**3. Maximum Building Ground Floor Area and Height.** All development on the

Property shall conform to the following requirements:

Section	Maximum Building Ground Floor Area Per Building	Maximum Building Height
Village A	15,000 S.F.	50 feet
Village B	10,000 S.F.	40 feet
Village C	5,000 S.F.	40 feet

**4. Lighting.** All street light poles on the Property shall not exceed 20 feet in height. All building mounted external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. All street and parking lot lights shall be high pressure sodium type lights. No glare defined as 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Zoning Administrator. There shall be no exposed neon or internally lit canopies permitted on the Property except as part of approved monument or building mounted signage.

**5. Architectural Review.** (a) Owner has submitted herewith as Exhibit C and the County has approved a set of Architectural Guidelines prepared by Guernsey Tingle Architects (as the same may be amended or supplemented from time to time as herein provided, the "Guidelines"). Any amendments to the Guidelines shall require the approval of the Zoning Administrator.

(b) The owner shall establish an Architectural Review Committee ("ARC"), which shall carry out and enforce the Guidelines. The President of the Banbury Village Homeowners Association shall be a member of the ARC. The ARC shall review architectural drawings for

each building in the development and shall have the sole discretion to approve and reject specific building designs. No building shall be constructed on the Property without the approval of the ARC. The ARC shall also have the right to establish additional specific architectural requirements that amplify but are not inconsistent with the Guidelines, which requirements do not require County approval. The ARC shall include the Owner or its designated representative, an architectural consultant and, if selected by the Owner, other members of the Association.

(c) In addition to the approval of the ARC required by (b) above, architectural elevations of all sides of each building, including building materials and colors, shall be submitted to the Zoning Administrator with the site plan for the building and shall be subject to approval by the Zoning Administrator for conformity with the Guidelines. In the event the Zoning Administrator disapproves architectural plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, such plans shall be forwarded to the Planning Commission for review if, and only if, the reasons for disapproval or requiring modification stem from a failure to meet the provisions of the Guidelines. The plans shall be approved by the Planning Commission if it finds such plans to be in accordance with the Guidelines. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of the Guidelines. This section shall not be interpreted to confer upon the Planning Commission any right to override the decision of the Zoning Administrator on any issue not directly related to the specific additional requirements of the Guidelines. In the event the applicant is aggrieved by a decision of the Planning Commission, the applicant may appeal the Commission's decision to the Board of Supervisors.

**6. Buffers.** Owner will provide and maintain full width Type 35 transitional buffers on the Property along the west (Fenton Mill Road frontage) perimeter, the north (Oaks at Fenton Mill) perimeter and the east (church) perimeter of the Property, regardless of the state of development of adjacent properties. Owner shall provide a Type 50 transitional buffer and berm at least six feet in height in the northeast corner of the Property generally as shown on the Key Elements Plan. The berm shall be graded so as to be capable of supporting landscaping on its sides and top and such landscaping shall be designed, selected and installed at the time of installation of the berm. Owner shall provide a landscape area a minimum of 35 feet wide along the Newman Road frontage of the Property. The landscape area shall consist of deciduous trees, evergreen trees, shrubbery and low berms designed by a landscape professional to enhance the views from Newman Road into the Property, complement the architecture of the buildings, and help screen views of automobiles and parking areas. All transitional buffers proffered hereby shall be subject to the standards and provisions of Section 24.1-243 of the Zoning Ordinance, including subsection 24.1-243(a)(4). Landscaping shall be maintained as required by Section 24.1-242 of the Zoning Ordinance.

**7. Entrances.** There shall be no more than two entrances into the Property in general conformity with the Key Elements Plan with the location of each entrance subject to the approval of the County and the Virginia Department of Transportation. Owner shall install a left turn lane with 200 feet of storage and a 200 foot taper from east bound Newman Road into the main entrance into the Property. Owner shall install a right turn radius into each of the two entrances into the Property. The turn lane and radius improvements shall be designed and constructed in accordance with Virginia Department of Transportation standards and guidelines.

**8. Internal Streets and Streetscapes.** Internal streets shall be installed in accordance with the layout shown on Key Elements Plan and shall be planted with street trees at 40 feet on center. Trees shall have at least a 2 1/2 inch caliper at time of planting. Species shall be one of the following: London Planetree, Japanese Zelkova, Littleleaf Linden or Willow Oak. Street trees shall be maintained as required by Section 24.1-242 of the Zoning Ordinance.

**9. Pedestrian Connections.** Pedestrian connections shall be installed between the Property and the proposed Oaks at Fenton Mill walking trail on the north side of the Property; and between the Property and the church parking lot on the east side of the Property, generally as shown on the Key Elements Plan. Internal pedestrian connections shall be provided between buildings on the Property. Pedestrian connections shall be at least 4 feet wide and be constructed of an all-weather surface.

**10. Community Feature.** Owner shall install a community architectural feature consisting of a village icon that is unique to the project, such as a clock tower, gazebo, or similar element that is the appropriate scale for the surrounding buildings. Maximum height shall be 30 feet above grade and maximum footprint shall be 16 feet by 16 feet.

**11. Monument Signage.** Project entrance and identification monument sign shall be installed and landscaped in the median of divided entry lane at the main entrance into the Property. In addition, all building and business signs shall be monument-style signs or building mounted signs. There shall be no more than four monument signs in addition to the project sign on the Newman Road frontage of the Property. Such signs shall be no more than eight feet in height, no larger than 50 square feet, with a consistent design for the monument structure and consistent background color. All monument signs shall include no more than four colors.

64 ENTERPRISES, L.L.P.

By: Jeff Williams  
Title: Partner

FORD'S COLONY FIRST CHOICE REALTY, INC.

By: Steph Myers  
Title: Secretary / Treasurer

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF YORK, to-wit:

The foregoing instrument was acknowledged before me this 30 day of July, 2004, by Jeff Williams TO, as Partner of 64 Enterprises, L.L.P., on behalf of the partnership.

Vernon Sedberry  
NOTARY PUBLIC

My commission expires: 12/31/04

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of August, 2004, by STEPHEN P. DREYBUS, as SECRETARY/TREASURER of Ford's Colony First Choice Realty, Inc., on behalf of the corporation.

Patricia H. Cooper  
NOTARY PUBLIC

My commission expires: December 31, 2006.



ALL that certain piece or parcel of land in Bruton District of York County, Virginia containing 4.974 acres and shown on the attached plat prepared by M. E. Floyd, C.L.S., dated September 7, 1972 and reinspected and revised December 28, 1973, and more particularly described in accordance with said plat as follows:

BEGINNING at a point where the north line of State Route 646 intersects with the north line or relocated State Route 602; thence in a westwardly direction along the north line of said relocated State Route 602 N 51° 08' 13" W 24.09 feet to a point; thence continuing in a westwardly direction along the north line of said relocated State Route 602 as it curves to the left, said curve being the arc of a circle having a radius of 459.26 feet, a distance of 264.61 feet to a point; thence continuing in a westwardly direction, along the north line of said relocated State Route 602 N 84° 08' 57" W 41.30 feet to a point; thence N 35° 51' 03" E 500.00 feet to a point; thence S 84° 08' 57" E 180.00 feet; thence S 35° 00' 40" E 427.95 feet to a point on the north line of State Route 646; thence in a southwestwardly direction along the north line of said State Route 646 S 61° 39' 32" W 179.03 feet to a point; thence continuing along the north line of said State Route 646 in a southwestwardly direction S 74° 51' 27" W 267.97 feet to the aforesaid point and place of beginning.

TOGETHER with a two foot wide easement running from the northwest corner of the property hereby conveyed, a distance of approximately 800 feet to a creek as shown on the attached plat prepared by M. E. Floyd, C.L.S., for the purpose of effluent runoff from a packaged sewer system for the use and benefit of the property hereby conveyed.

BEING the same property conveyed to Wilson E. Sheridan by deed from Charles Joseph Burke and Ethelynn T. Burke, his wife, dated September 30, 1972 and recorded October 4, 1972 in the Clerk's Office, Circuit Court of York County, Virginia, in Deed Book 248, page 661.

All that certain lot, piece or parcel of land, lying and being in Bruton District, York County, Virginia, shown as Parcel A, 10.00 Acres, and more particularly described on that certain plat entitled: "SUBDIVISION OF PROPERTY OF ETHELYN T. BURKE, WILL BOOK 79, PAGE 242, (DB. 61 P. 31, DB114, P. 41, DB. 199, P. 156) PLAT BOOK 8, PAGE 86, BRUTON DISTRICT, YORK COUNTY, VIRGINIA," dated 12/28/95, revised February 2, 1996, and made by Langley and McDonald, P.C., Engineers - Surveyors - Planners Landscape Architects - Environmental Consultants, Virginia Beach, Williamsburg, Virginia recorded in Plat Book 12, page 359, to which reference is made for a more complete description of the property conveyed.

Subject to all conditions, easements, and dedications for right-of-way purposes, covenants and restrictions of record or apparent on the ground.

Being the same property conveyed to the grantor herein by Deed dated March 13, 1996 from Ethelyn T. Burke, widow and recorded in the aforesaid Clerk's Office in Deed Book 887, Page 94.

## Banbury Village Revised Architectural Guidelines

*Revised August 5, 2004*

**Design Intent:** The architectural intent of Banbury Village is to provide a commercial and office park in which the buildings are harmonious with each other, and are not incompatible with the nearby residential, church and fire station buildings in materials and scale. The architectural guidelines strive to encourage good design, preserve property values and foster owner pride within the park. The following styles are considered consistent with the Architectural Guidelines for Banbury Village:

- Colonial
- Georgian
- Neo-classical
- Victorian
- Transitional

Contemporary interpretations of these architectural styles are acceptable, if based on the scale and proportions of the style and if compatible with other buildings within the village.

**Architectural Review Committee:** The owner shall establish an Architectural Review Committee (ARC), which shall carry out and enforce the architectural guidelines. The ARC shall review architectural drawings for each building in Banbury Village and shall have the sole discretion to approve and reject specific building designs. The ARC shall also have the right to establish additional specific architectural requirements that amplify but are not inconsistent with these guidelines. The ARC shall include the Owner, an architectural consultant, the president of the Banbury Cross Homeowner's Association and, if selected by the Owner, other members of the Banbury Village Property Owner's Association.

**Architectural Design Guidelines:** Buildings in Banbury Village shall have varied roof lines, wall articulations, window placements and other features to reduce the mass and unbroken building lines that may occur in certain standard commercial building designs. In addition, the ARC shall evaluate proposed designs based on the following guiding principles:

- 1) The application of architectural elements and design principles that are consistent with the proposed architectural styles. This shall include:
  - The proper scale, proportion and relationship of building forms.
  - The appropriate scale and rhythm of fenestration.
  - The proper scale, proportion and detailing of architectural elements, including building lighting and signage.
  - The appropriate and consistent application of building materials, including color schemes for trim work, signage and attachments such as canopies and awnings.
- 2) The incorporation of architectural features such as dormers, gables, chimneys, etc. to reduce the amount of unbroken roof surfaces.

- 3) The use of an integrated landscape scheme to both enhance prominent building features and to assist in further defining articulated building massing.

**Exterior Materials:** Siding shall be brick, stone, wood siding, or stucco. Manufactured materials that simulate these sidings, such as vinyl, split-faced CMU, EIFS (Dryvit) and PVC (solid plastic), are acceptable if approved by the ARC. Siding materials shall be predominantly brick, stone or wood siding (or materials which simulate these sidings), with other materials used as accents, banding or other architectural treatments where appropriate for the architectural style. Metal siding and exposed concrete block shall not be used. Sloped roofing materials shall be architectural grade asphalt/fiberglass shingles, standing seam metal, slate or simulated slate. Other siding and roofing materials may be approved, if they are determined by the ARC to be compatible with the intent of the guidelines and the other buildings in Banbury Village, and they are indistinguishable in exterior appearance from the approved materials.

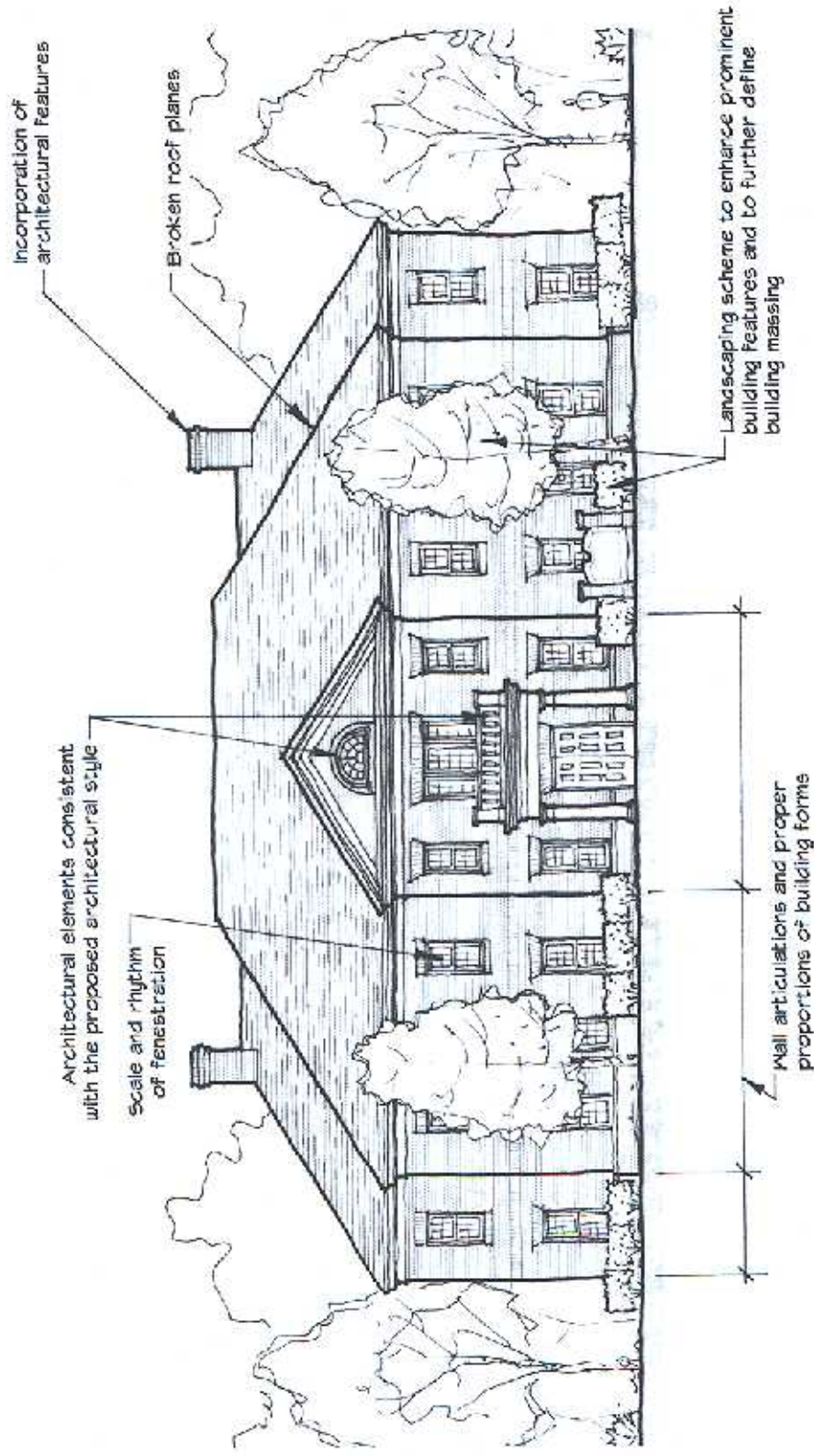
**Building Façades:** Building façade materials and architectural treatment shall be consistent on all sides of buildings, including rear elevations.

**Mechanical Screening:** All mechanical equipment shall be screened from view with architectural elements, fencing or landscaping.

**Building Areas and Heights:** Buildings shall conform to the following requirements:

Section	Maximum Building Ground Floor Area	Maximum Building Height	Minimum Roof Pitch	Other Requirements
Village A	15,000 SF	50 feet	<ul style="list-style-type: none"><li>Sloped Roof 6:12</li><li>Flat Roof acceptable with parapet walls on all visible sides</li></ul>	Any buildings greater than 10,000 SF in ground floor area must be articulated to achieve smaller scale in appearance.
Village B	10,000 SF	40 feet	<ul style="list-style-type: none"><li>Sloped Roof 6:12</li><li>Flat Roof acceptable with parapet walls on all sides</li></ul>	
Village C	5,000 SF	40 feet	<ul style="list-style-type: none"><li>Sloped Roof 6:12</li><li>No Flat Roofs</li></ul>	

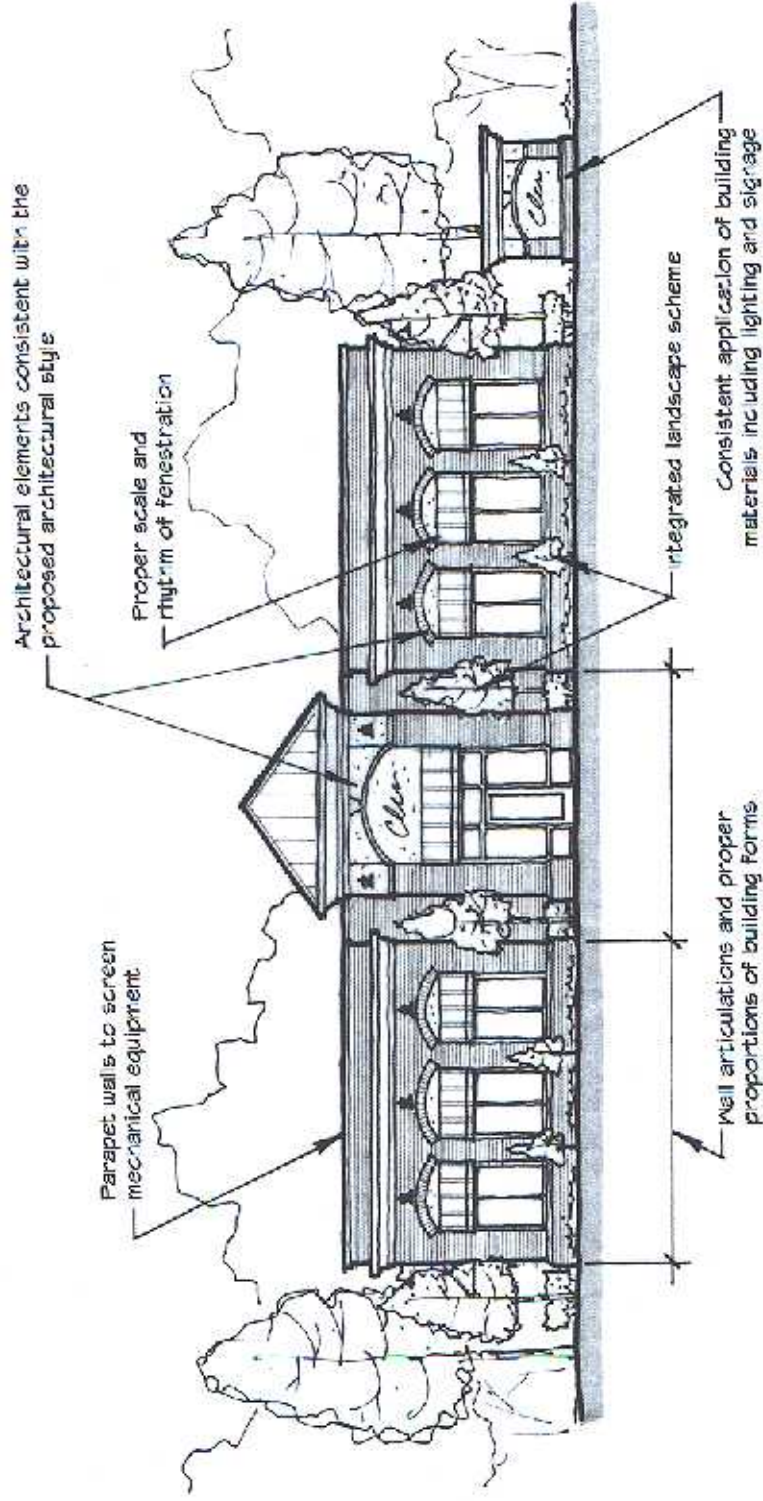
**Representative Building Elevations & Images:** The attached sketches show buildings that are representative of these Architectural Guidelines, as well as notations of the types of architectural elements and scale that are consistent with the Guidelines. The photographs of existing buildings also show buildings that are generally consistent with the Guidelines.



Building size: 100' x 50' = 5,000 SF  
 Building height: 2 stories, 40'

## Banbury Village Architectural Guidelines

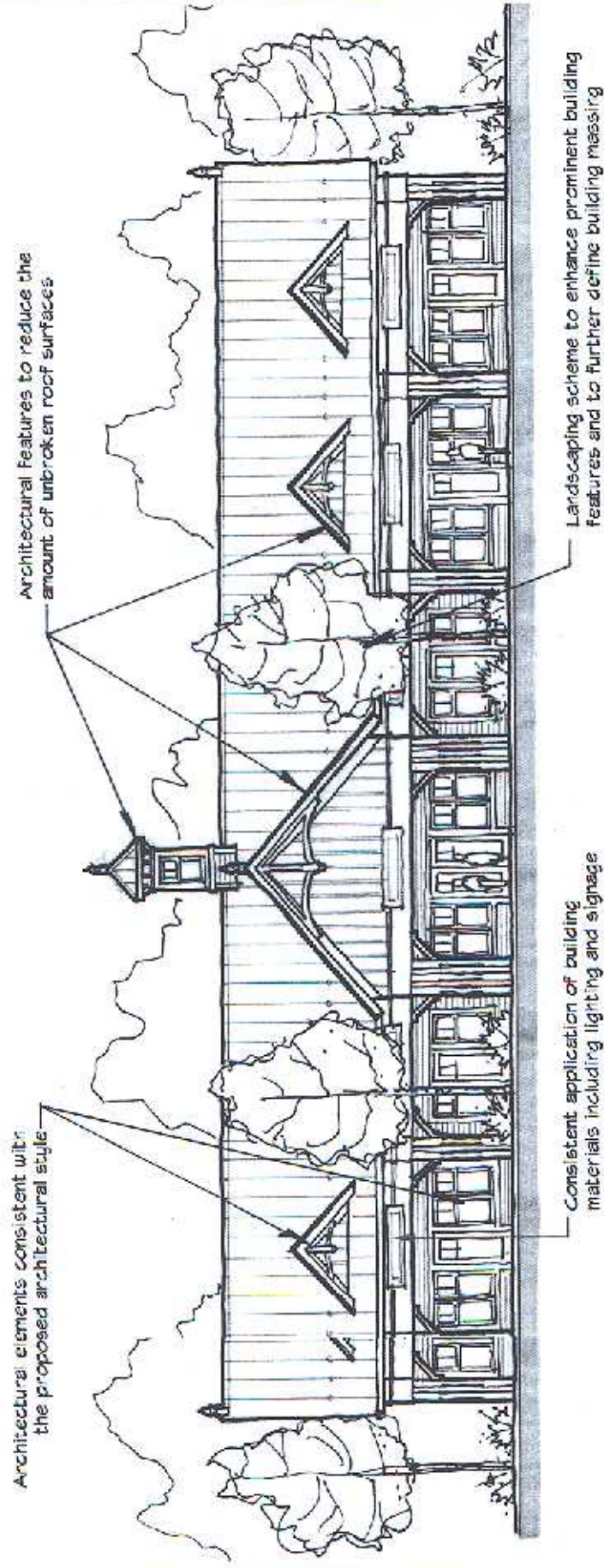
### Representative Building Images



Building size: 80' x 50' = 4,000 SF  
 Building height: 1 story, 20'

## Banbury Village Architectural Guidelines Representative Building Images





Building size: 140' x 70' = 9,800 SF  
 Building height: 1 story, 29'

## Banbury Village Architectural Guidelines Representative Building Images



Banbury Village Architectural Guidelines  
Representative Building Images





Banbury Village Architectural Guidelines  
Representative Building Images



Banbury Village Architectural Guidelines  
Representative Building Images